



General Assembly

February Session, 2008

***Raised Bill No. 273***

LCO No. 1607

\*01607\_\_\_\_\_INS\*

Referred to Committee on Insurance and Real Estate

Introduced by:  
(INS)

***AN ACT CONCERNING REGULATION OF THE SECONDARY MARKET  
IN PHYSICIAN DISCOUNTS.***

Be it enacted by the Senate and House of Representatives in General  
Assembly convened:

1       Section 1. (NEW) (*Effective October 1, 2008*) (a) For purposes of this  
2       section:

3       (1) "Covered entity" means an entity responsible for payment or  
4       coordination of health care services, including, but not limited to, an  
5       entity that pays or administers claims on behalf of other entities;

6       (2) "Contracting agent" means a covered entity engaged in, for  
7       monetary or other consideration, the leasing, selling, transferring,  
8       aggregating, assigning or otherwise conveying a physician or  
9       physician panel to provide health care services to beneficiaries;

10       (3) "Payer" means a self-insured employer, as defined in subsection  
11       (e) of section 38a-551 of the general statutes, health care service plan,  
12       insurer or other entity that assumes the risk for payment of claims or  
13       reimbursement for services provided by contracted physicians; and

14       (4) "Physician panel" means a network of participating physicians

15 who, pursuant to contracts with an insurer, provide covered services  
16 to plan members for a product offered by the insurer in exchange for a  
17 specified type of compensation.

18 (b) Each contracting agent shall register with the Insurance  
19 Commissioner, in a manner prescribed by regulation and on forms  
20 furnished by the commissioner for such registration, before engaging  
21 in business in this state.

22 (c) No contracting agent shall sell, lease, assign, transfer or  
23 otherwise convey a physician's name, contracted rate or any other  
24 information unless such agent has a direct contract with such  
25 physician.

26 (d) A physician shall not be required to authorize or consent to the  
27 sale of the physician's name or such physician's contracted rates (1) for  
28 use with more than a single product or line of business, or (2) more  
29 than once.

30 (e) The terms of a contract between a physician and a contracting  
31 agent shall not supersede the provisions of this section. Each such  
32 contract shall contain the following provisions and any additional  
33 information as may be required by the commissioner:

34 (1) All terms material to the contract, with each amendment made to  
35 an original contract identified and highlighted;

36 (2) Clearly and in a separate section, the name of any payer eligible  
37 to claim a discounted rate under the contract;

38 (A) Any payer seeking eligibility to claim a discounted rate, directly  
39 or indirectly, subsequent to the original execution of the contract, shall  
40 be added to such contract through a separate amendment to the  
41 contract; and

42 (B) Any such amendment shall be presented to the physician for the  
43 physician's signature not later than ninety days prior to any

44 anticipated disclosure, lease, sale, transfer, aggregation, assignment or  
45 other conveyance to the payer of the physician's discounted rate;

46 (3) A provision identifying the right of the physician to affirmatively  
47 opt in or opt out, without penalty, sanction or retaliation, of each  
48 agreement to lease, sell, transfer, aggregate, assign or otherwise convey  
49 a physician panel and associated discounts;

50 (4) A provision informing the physician of his contracting and  
51 payment rights, as specified in section 38a-816 of the general statutes;

52 (5) A provision fully disclosing any access fee or other remuneration  
53 the contracting agent may receive and the specific benefits and service  
54 the contracting agent shall provide;

55 (6) A provision disclosing the requirement, as specified in  
56 subsection (f) of this section, of the contracting agent to prohibit any  
57 payer or covered entity, through contract, to disclose, lease, sell,  
58 transfer, aggregate, assign or otherwise convey the physician panel  
59 and associated discounts to any other payer or covered entity; and

60 (7) A provision informing the physician of the requirements  
61 following termination of the contract between the physician and the  
62 contracting agent, as specified in subsection (k) of this section.

63 (f) (1) No contracting agent shall sell, lease, assign, transfer or  
64 otherwise convey a physician panel and its associated discounts, or  
65 any other contractual obligation, to any entity that is not a payer or  
66 covered entity.

67 (2) A contracting agent shall only sell, lease, assign, transfer or  
68 otherwise convey a physician panel and its associated discounts to a  
69 payer or covered entity through a direct contract with such payer or  
70 covered entity. Such contract shall include the provision of subdivision  
71 (3) of this subsection.

72 (3) No payer or covered entity shall sell, lease, assign, transfer or

73 otherwise convey a physician panel and its associated discounts  
74 obtained under a contract between a contracting agent and a physician  
75 to any other payer or covered entity.

76 (g) No payer, payer representative, administrator of claims payment  
77 or other third-party acting on behalf of a payer shall claim or offer a  
78 physician's contracted rate for services, except to the extent that such  
79 rate: (1) Is based on the contract that directly controls payment for  
80 services provided to the patient; and (2) is reflected on the explanation  
81 of benefits or remittance advice and on any patient identification card  
82 issued to the patient.

83 (h) Each payer to which a contracting agent has leased, sold,  
84 transferred, aggregated, assigned or otherwise conveyed a physician  
85 panel and its associated discounts shall comply with the underlying  
86 contract between the contracting agent and the physician and shall pay  
87 the physician pursuant to the rates and methods of payment set forth  
88 in such underlying contract.

89 (i) (1) Any explanation of benefits or remittance advice in electronic  
90 or paper format:

91 (A) Shall include the identity of the contracting agent or other entity  
92 authorized to lease, sell, transfer, aggregate, assign or otherwise  
93 convey the physician's name and associated discount; and

94 (B) When issued by a payer or its representative or a covered entity,  
95 shall clearly identify the entity assuming the risk for payment of claims  
96 or reimbursement for services and the identity of the contracting agent  
97 through which the payment rate and any discount are claimed. A copy  
98 of the contract between the contracting agent and the payer or covered  
99 entity shall be provided to the physician upon request.

100 (2) Where the contracting agent, payer or covered entity issues  
101 member or subscriber identification cards, the cards shall clearly and  
102 legibly identify any third-party entity, including any contracting agent:

103 (A) Who is responsible for paying claims; or (B) whose contract with a  
104 payer or covered entity controls or otherwise affects reimbursement  
105 for claims filed according to the subscriber contract.

106 (j) (1) A contracting agent and any payer or covered entity on whose  
107 behalf the contracting agent acts shall comply with sections 38a-815  
108 and 38a-816 of the general statutes.

109 (2) Not later than forty-five days after receiving written notice from  
110 a physician, under direct contract with a contracting agent, that a  
111 payer or covered entity to which such contracting agent has leased,  
112 sold, transferred, aggregated, assigned or otherwise conveyed its  
113 physician panel is not complying with the terms of the underlying  
114 contract between the contracting agent and the physician, including,  
115 but not limited to, the requirements for timely and accurate payment  
116 of claims as specified in subdivision (15) of section 38a-816 of the  
117 general statutes, and such physician has fulfilled the applicable appeal  
118 or grievance process without satisfaction, the contracting agent shall:  
119 (A) Ensure that such payer or covered entity causes correct payment to  
120 be made to the physician and otherwise complies with the terms of the  
121 underlying contract; or (B) assume direct responsibility for the  
122 payment of the claim in dispute by paying the physician the amount  
123 owed under the contract in the manner required by state law.

124 (k) Upon termination of a contract between a physician and a  
125 contracting agent, or upon termination of a physician's authorization  
126 for a payer or covered entity to claim the reimbursement rate as  
127 permitted under the terms of such contract, such contracting agent  
128 shall notify each payer or covered entity that such payer or covered  
129 entity: (1) Is no longer authorized to (A) access the physician's  
130 discounted rate, or (B) disclose, lease, sell, transfer, aggregate, assign  
131 or otherwise convey the physician's discounted rate; and (2) shall cease  
132 to claim such physician's discounted rates.

133 (l) No covered entity or contracting agent shall retaliate against a  
134 physician for exercising the right of action provided under this section.

135 (m) The commissioner shall adopt regulations, in accordance with  
136 chapter 54 of the general statutes, to carry out the provisions of this  
137 section. Such regulations shall include, but not be limited to, an  
138 administrative hearing process for aggrieved parties and remedies that  
139 may include, but not be limited to, monetary penalties of not less than  
140 one thousand dollars per violation, cease and desist orders and  
141 recoupment of payments lost by a physician due to an unauthorized  
142 agreement to sell, lease, transfer, aggregate, assign or otherwise convey  
143 such physician or physician panel and associated discounts in  
144 violation of this section.

145 (n) Nothing in this section shall prohibit or limit any claim or action  
146 for a claim that a physician has against a contracting agent or covered  
147 entity.

This act shall take effect as follows and shall amend the following sections:		
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Section 1	<i>October 1, 2008</i>	New section
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***Statement of Purpose:***

To regulate the secondary market of physician discounts.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*